Security Intelligence Review Committee

2009-2010 Estimates

Part III – Report on Plans and Priorities

The Right Honourable Stephen Harper
Prime Minister of Canada

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Chair's Message

I am pleased to submit SIRC's Report on Plans and Priorities (RPP) for 2009-2010.

For over two decades, SIRC has been a cornerstone of the democratic accountability of CSIS by ensuring that it acts appropriately, effectively and lawfully in exercising its mandate to protect Canada's national security. As Canada's national security intelligence service, CSIS has unique powers and responsibilities. SIRC alone has both the legal mandate and expertise to carry out the ongoing, independent review of CSIS's operations and activities.

SIRC's mandate has remained unchanged since its creation, but proposed initiatives may affect Canada's national security accountability regime in the future. In the fall of 2008, the Government announced that it intends to respond to the recommendations of Mr. Justice O'Connor by moving forward on comprehensive and robust review measures for the Canadian security intelligence community. In the fall 2008 Speech from the Throne, the Government indicated that it will be tabling a national security statement to outline how it intends to balance the new threats and challenges to national security faced by Canada with the need for oversight, accountability and the protection of civil liberties. SIRC will be closely monitoring these developments, as well as any others in the national security environment, to ensure that it is ready to adapt to change - and respond to any challenge.

I hope that this document provides readers with further insight into SIRC's contribution to maintaining the delicate balance between Canadians' rights and freedoms, and the protection of our collective security.

Honourable Gary Filmon, P.C., O.M.
Chair

SECTION I – AGENCY OVERVIEW

Summary Information

Raison d'être

The Canadian Security Intelligence Service (CSIS) performs its duties and functions in accordance with the law, policy and Ministerial direction.

Responsibilities

The Security Intelligence Review Committee (SIRC or the Committee) is a small, independent review body that reports to Parliament on the operations of the Canadian Security Intelligence Service (CSIS or the Service). It was established at the same time that CSIS was created in 1984, and derives its powers from the same legislation, the *CSIS Act*.

In order to fulfil its purpose, SIRC has two key Program Activities. The first is to conduct in-depth reviews of CSIS activities to ensure that they comply with the *CSIS Act* and the various policy instruments that flow from it, and with direction from the Minister. The second is to receive and inquire into complaints by any person about any action of the Service.

The Service continues at all times to be accountable for current operations through the existing apparatus of government, specifically the Minister of Public Safety, the Inspector General of CSIS, central agencies and the Auditor General, Information Commissioner and Privacy Commissioner of Canada.

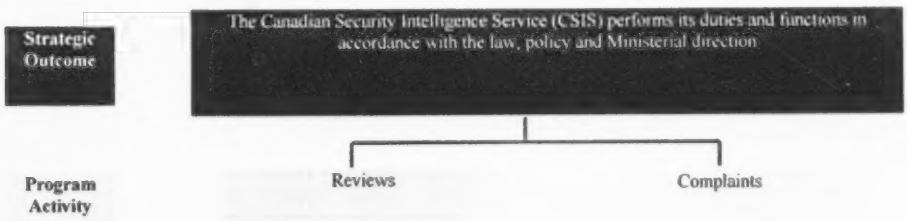
Strategic Outcome

In order to pursue its mandate effectively, SIRC aims to achieve the following strategic outcome:

> The Canadian Security Intelligence Service (CSIS) performs its duties and functions in accordance with the law, policy and Ministerial direction.

Program Activity Architecture

The chart below illustrates SIRC's framework of program activities, which roll-up and contribute to progress toward the organization's Strategic Outcome.


Strategic Outcome
The Canadian Security Intelligence Service (CSIS) performs its duties and functions in accordance with the law, policy and Ministerial direction
Program Activity
Reviews
Complaints

Planning Summary

Financial Resources (thousands of dollars)

Financial Resources	2009-10	2010-11	2011-12
Planned Spending	$2,919	$2,919	$2,919

The financial resources table above provides a summary of the total planned spending and cost of services received without charge for SIRC for the next three fiscal years.

Human Resources

Human Resources	2009-10	2010-11	2011-12
Full-Time Equivalents (FTEs)	21	21	21

The human resource table above provides a summary of the total planned human resources for SIRC for the next three fiscal years.

Strategic Outcome 1: The Canadian Security Intelligence Service (CSIS) performs its duties and functions in accordance with the law, policy and Ministerial direction.						
Performance Indicators			**Targets**			
Number of reviews/complaint investigations that reported CSIS activities were in compliance with the *CSIS Act*, Ministerial Direction and operational policy			No major incidents of non-compliance by CSIS			
Program Activity	**Expected Results**	**Forecast Spending** 2008-09	**Planning Spending ($ thousands of dollars)** 2009-10	2010-11	2011-12	**Alignment to Government outcomes**
Reviews	Improvements to CSIS performance	$1,582	$1,577	$1,577	$1,577	SIRC provides assurance that the Service is acting within law, policy and Ministerial direction when contributing to such government outcomes as the safety of Canada, the security of the Canadian marketplace and support for a strong and mutually beneficial North American partnership.
Complaints	Parties before SIRC receive a fair and timely resolution of their complaint	$564	$569	$569	$569	
Internal Services	Corporate management to support the needs of the organization and	$768	$773	$773	$773	

	fulfill corporate obligations					
Total for Strategic Outcome		$2,914	$2,919	$2, 919	$2,919	

Contributions of Priorities to Strategic Outcome

Operational Priorities	Type	Links to Strategic outcomes	Description
Continuous improvement in the review and complaints programs	Ongoing	SO 1	• SIRC's research methodology is constantly evolving in order to reflect CSIS's new structure and the increasing complexity of its operations. • SIRC's reliance on reviewing electronic and paper documentation is complemented increasingly by briefings and interviews with CSIS staff. • SIRC will continue to encourage researchers to attend seminars and conferences, as well as provide opportunities for training and professional development. • In the realm of complaints, SIRC will continue to encourage CSIS to make representations to SIRC regarding its jurisdiction, prior to the Committee making a formal decision on whether or not to accept a complaints case. • SIRC Members will be provided ongoing legal training, to assist them in presiding over a fair hearing in a timely manner.
Management Priorities	**Type**	**Links to Strategic outcomes**	**Description**
Improved corporate management	Ongoing	SO 1	• SIRC will continue to work towards finalizing a modern management accountability plan. • SIRC will introduce internal policies and develop a Business Continuity Plan as part of its commitment to adopting modern management practices and complying with the Government Security Policy. • SIRC will examine the reports of the Treasury Board Secretariat's audits on contracting for professional services, and hospitality and travel expenses of small federal agencies, to develop appropriate responses to any issues raised. It will also respond to reporting requests from Treasury Board for two upcoming audits: Human Resources and Skills Development, and Common Look and Feel Standards for the Internet.

Risk Analysis

In recent years, the security intelligence community has undergone several legal, policy and program reforms in response to the evolving threat environment. SIRC continues to monitor discussion and debate about potential and ongoing Government initiatives that may impact upon the nature and scope of SIRC's reviews and complaints investigations.

SIRC has paid close attention to the work of the Commission of Inquiry into the Action of Canadian Officials in relation to Maher Arar. In fall 2008, the Government announced that it intended to respond to Mr. Justice O'Connor's recommendations by moving forward on comprehensive and robust security intelligence review measures. In December 2006, Mr. Justice O'Connor proposed that independent review and complaints investigations be extended to encompass the national security activities of Citizenship and Immigration, Transport, the Financial Transactions and Reports Analysis Centre and Foreign Affairs and International Trade, and that SIRC was the logical body to assume this role. SIRC remains ready to assume an expanded role, subject to a full and complete assessment of possible workload and resource implications.

SIRC will also carefully study the analysis and recommendations of Mr. Justice John Major, whom the Government appointed in May 2006 to lead an independent judicial inquiry into certain aspects of the 1985 Air India bombing.

Proposed legislation to establish a National Security Committee of Parliamentarians died on the order paper when the previous Government fell in 2006. SIRC remains concerned about respective mandates and possible overlap and duplication, should the Government pursue this initiative. SIRC's Members would also have to address legal issues in responding to Parliamentary requests for classified information, which could conflict with their Oaths of Secrecy and certain provisions of the *CSIS Act*.

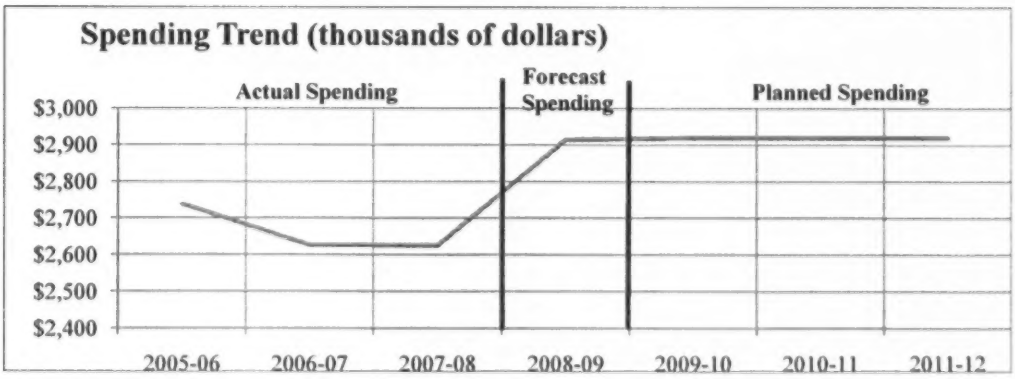
SIRC will also continue to adjust its focus to account for CSIS's involvement in new operating environments. In 2006, CSIS undertook a significant organizational

realignment to streamline its operations and to reflect the changed operational environment. These changes have increased operational capability, as well as consolidated and enhanced analysis and production functions. SIRC's review function has been adapting to these changes, in order to ensure regular examination of all CSIS operations and activities. There remains ongoing debate on the possible expansion of CSIS's mandate to include foreign intelligence gathering abroad. A formal expansion of CSIS's role would have major implications for SIRC, as it would introduce entirely new activities for the Committee to monitor.

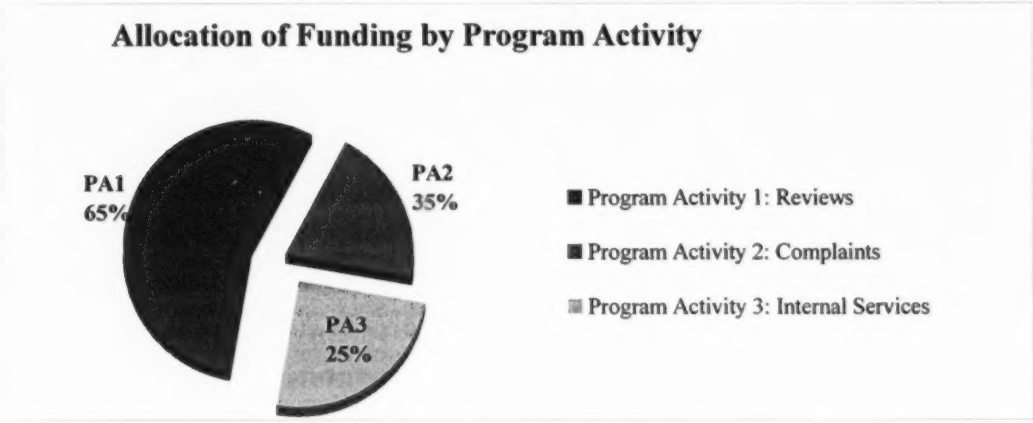
Given its very small staff complement, SIRC struggles with central agency reporting requirements. Although SIRC supports the principles of modern management accountability, it lacks dedicated functional specialists who would be solely responsible for financial and human resource management. As a result, SIRC must increasingly rely on a combination of external contractors and internal staff, which diverts resources from its core functions.

Expenditure Profile

For the 2009-2010 fiscal year, SIRC plans to spend $2.9 million to meet the expected results of its program activities and contribute to its strategic outcome. The figure below illustrates SIRC's spending trend from 2005-06 to 2011-2012.



For the 2005-06 to 2007-08 periods, the total spending includes all Parliamentary appropriation and revenue sources, namely Main Estimates and Treasury Board Vote 15. For the 2009-10 to 2011-12 periods, the total spending corresponds to the planned spending and revenues. Supplementary funding and carry forward adjustments are unknown at this point and, therefore, are not reflected in the expenditure profile.



Voted and Statutory Items

This table illustrates the way in which Parliament approved PCA resources, as well as how SIRC spent its funds.

Voted and Statutory Items displayed in the Main Estimates

Vote # of Statutory item (S)	Truncated Vote or Statutory Item	2008-09 Main Estimates ($ thousands of dollars)	2009-10 Main Estimates ($ thousands of dollars)
30	Program Expenditure	$2,637	$2,649
(s)	Contributions to employee benefit plans	$284	$277
	Total	**$2,921**	**$2,926**

Section II: Program Activities by Strategic Outcome

SIRC has only one strategic outcome, described below. In realizing this outcome, the Committee is seeking to ensure that CSIS acts lawfully and effectively in the performance of its duties.

SIRC is situated uniquely to provide context to the debates about the nature and scope of the threat environment, and how these are addressed. Although SIRC does not promote any particular viewpoint or policy perspective, our reviews and complaint decisions provide important snapshots of CSIS's work—offering examinations of the nature and extent of the threat environment, and whether the Service addresses these threats appropriately and effectively and in a manner that respects its powers and authorities. This outcome is important to Canadians, because it helps to protect their fundamental rights and freedoms. SIRC serves as a cornerstone in assuring the democratic accountability of one of the Government's most powerful security organizations.

Strategic Outcome: The Canadian Security Intelligence Service (CSIS) performs its duties and functions in accordance with the law, policy and Ministerial direction.

The following section describes SIRC's program activities and identifies the expected result, performance indicators and targets for each. It also explains how SIRC intends to meet the expected results, and presents the financial and human resources that will be dedicated to each program activity.

The following two program activities will be discussed in this section:

- In-depth reviews of CSIS activities; and
- Inquiries into complaints.

Additional information on these program activities can be found on the Committee's website (www.sirc.gc.ca).

Program Activity: Reviews

In-Depth Reviews of CSIS Activities					
Human Resources (FTEs) and Planned Spending ($ thousands of dollars)					
2009-10		2010-2011		2011-2012	
FTE	Planned Spending	FTE	Planned Spending	FTE	Planned Spending
12.5	$1,577	12.5	$1,577	12.5	$1,577

Program Activity Results	Performance Indicators	Targets
The improvement of CSIS's performance based on the findings and recommendations that SIRC makes in its reviews.	Percentage of SIRC's review recommendations accepted by CSIS	70% of SIRC's review recommendations accepted by CSIS
	Frequency that key elements of CSIS activities and operations are reviewed	Key elements of CSIS activities and operations are reviewed at least once every five years
	Number of reviews completed as per SIRC's annual Research Plan	100% of reviews completed per SIRC's annual Research Plan

Program Activity Summary: The purpose of the Review Program is to conduct reviews of CSIS activities to ensure that CSIS performs its duties and functions appropriately and effectively, and in accordance with legislation, policy and Ministerial Direction. Through a comprehensive and multifaceted program of research, SIRC staff examine various aspects of CSIS's operations and activities to prepare a retrospective analysis for the Committee's approval.

SIRC's research program is designed to address a broad range of CSIS's duties and functions. This approach allows the Committee to manage the inherent risk of being able to review only a small percentage of CSIS activities in any single year. In selecting reviews, SIRC takes into consideration domestic and world events; issues, priorities and concerns identified by Canadians and Parliament; past reviews; matters of interest identified in complaints investigations; and existing and emerging CSIS activities. Over the course of several years, SIRC is able to examine a significant number of CSIS's investigations and functions. The Committee must always be prepared to adjust the research program to address unforeseen events.

SIRC's reviews assess CSIS's performance and may include findings and non-binding recommendations. These reviews are submitted to the Director of CSIS, the Inspector General CSIS and, in special circumstances, to the Minister of Public Safety. A declassified summary of each review is included in SIRC's Annual Report. The objective is to provide Parliament and Canadians with "snapshots" of past CSIS operations that, over time, provide a comprehensive picture of CSIS's performance.

The Review Program has three sub-activities: the production of SIRC's Annual Report and communications material, outreach and liaison. It is important to note that each of these sub-activities benefits from the contribution of SIRC legal staff involved in the Complaints Program.

SIRC's Annual Report to Parliament is the main communications vehicle for informing Canadians about its work. To the best of its ability and within the legal constraints governing national security and privacy, every review undertaken and every complaint acted upon, is summarized in SIRC's Annual Report. In accordance with Section 53 of the *CSIS Act*, SIRC submits this report to the Minister of Public Safety "no later than September 30" for tabling in Parliament within 15 days of the House sitting. In addition to producing an Annual Report, SIRC also undertakes a modest communications program. Communications material produced for the Committee, including speeches, news releases and backgrounders are posted on SIRC's website.

Outreach refers to events external to government, such as presentations to seminars and conferences by Committee Members and staff. The Executive Director will make several presentations throughout the year at university seminars.

Liaison refers to maintaining constructive relationships internal to government, such as those with Parliamentary Committees and Commissions of Inquiry. In the past, SIRC has appeared in front of the House Standing Committee on Public Safety and National Security and the Senate Standing Committee on National Security and Defence. SIRC expects to be in contact with Parliament more frequently in the coming year should the government re-introduce legislation to establish a National Security Committee of

Parliamentarians, or modify the intelligence accountability system in Canada. SIRC continues to participate in the Review Agencies Forum, which brings together representatives of the Office of the Commissioner of the Communications Security Establishment, the Inspector General of CSIS, and the Commission of Public Complaints against the RCMP.

Planning Highlights: In order to achieve the expected result, SIRC plans to undertake the following activities:

- SIRC will continue to select topics for review that reflect CSIS's new structure and the increasing complexity of its operations, which includes an increase in foreign activities;
- SIRC may explore the best practices of other domestic and foreign review bodies to refine further its Review Program. SIRC's participation in the Review Agencies Forum and the International Intelligence Review Agencies Conference offers opportunities in this regard;
- SIRC plans to complete six to eight reviews, while retaining the flexibility to respond to unforeseen events;
- SIRC will visit two CSIS regional offices to meet with senior staff and communicate the Committee's focus and concerns; and
- SIRC will review one Foreign Officer post abroad to monitor effectively the application of CSIS's information-sharing arrangements and relationships with foreign agencies.

Program Activity: Complaints

Inquiries into Complaints					
Human Resources (FTEs) and Planned Spending ($ Millions)					
2009-10		2010-2011		2011-2012	
FTE	Planned Spending	FTE	Planned Spending	FTE	Planned Spending
6.5	$569	6.5	$569	6.5	$569

Program Activity Results	Performance Indicators	Targets
Parties before SIRC receive a fair and timely resolution of their complaint	Percentage of SIRC complaint decisions upheld by the Federal Court on judicial review	100% of complaints decisions upheld
	Percentage of complaints where SIRC's decision on jurisdiction is made within 60 working days of receiving written complaint	85% of all jurisdictional decisions
	Percentage of complaints where SIRC's report is issued within two years of accepting jurisdiction	85% of all complaint reports

Program Activity Summary: The purpose of the Complaints Program is to receive and inquire into complaints about CSIS brought forward by individuals or groups. SIRC acts as an independent, quasi-judicial administrative tribunal and conducts investigations in relation to:

- complaints "with respect to any act or thing done by the Service" as described in the *CSIS Act*;
- complaints about denials of security clearances to federal government employees and contractors;
- referrals from the Canadian Human Rights Commission in cases where the complaint relates to the security of Canada;
- Minister of Public Safety's reports in respect of the *Citizenship Act;* and
- Complaints concerning any act or thing done by CSIS in relation to Transport Canada's Passenger Protect Program and Marine Transportation Security Clearance Program.

Once a written complaint is received, SIRC conducts an initial review. Where a complaint does not meet certain statutory requirements, SIRC declines jurisdiction. If a complaint is accepted, it is usually investigated through a quasi-judicial hearing presided over by a Committee Member, assisted by SIRC's legal staff. In investigating complaints, SIRC has all the powers of a superior court, and has access to all information in the possession of CSIS, except Cabinet confidences.

A complainant has the right to be represented by counsel and to make representations to the Committee. Pre-hearings may be conducted to establish and agree on procedures with the complainant and/or the complainant's counsel. SIRC's counsel provides legal advice on procedural and substantive matters to the presiding Member, and will also cross-examine Service witnesses when, for national security reasons, evidence must be heard *in camera, ex parte.*

At the completion of a hearing, the complainant is advised in writing of the Committee's decision, after any national security information has been removed. Depending on the type of complaint, SIRC also sends a report that includes findings and non-binding recommendations to the Minister of Public Safety, the Director of CSIS and, in cases involving denial of a security clearance, to the deputy head of the federal organization involved. A declassified summary of every complaint investigation is included in SIRC's Annual Report.

Planning Highlights: In order to achieve the expected result, SIRC plans to undertake the following activities:

- SIRC will continue to encourage CSIS to make representations to SIRC regarding its jurisdiction, prior to the Committee making a formal decision on whether or not to accept a complaints case;
- SIRC will provide ongoing legal training to assist Members in presiding over a fair hearing; and

- SIRC will continue to study best practices of other tribunals and adopt measures to improve its timely and efficient completion of investigations.

Program Activity: Internal Services

Corporate Direction and Internal Services consumes roughly one quarter of SIRC's total resources and covers a number of activities and services, which are essential to the smooth functioning of the organization.

Financial Resources			
	2009-10	2010-11	2011-12
($ thousands of dollars)	$773	$773	$773
Human Resources			
	2009-10	2010-11	2011-12
Full-Time Equivalents (FTEs)	2	2	2

This activity captures all of the costs associated with monthly meetings attended by Committee Members, including their per diems, travel and accommodation costs. Corporate Direction and Internal Services also includes ongoing refinement to SIRC's website, as well as the general informatics support required to maintain computing systems. In addition, financial and human resource management services not provided by the Privy Council Office are funded through this activity.